

**United States Department of Labor
Employees' Compensation Appeals Board**

LESSIE M. MCKINNEY, Appellant

and

**DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL
CENTER, Gainesville, FL Employer**

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**Docket No. 04-2156
Issued: January 27, 2005**

Appearances:

Lessie M. McKinney, pro se

Office of the Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On August 30, 2004 appellant filed a timely appeal of an August 19, 2004 decision of the Office of Workers' Compensation Programs, finding that she had not established left medial or lateral meniscus tears as causally related to a February 7, 2002 employment injury. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant has established left medial or lateral meniscus tears as causally related to her February 7, 2002 employment injury.

FACTUAL HISTORY

The case was before the Board on two prior appeals. In a decision dated May 6, 2003, the Board found that the Office met its burden of proof to terminate compensation effective August 29, 2002, as the medical evidence established that the accepted left knee contusion had

resolved by that date.¹ The Board also found that form reports from Dr. May Montrichard, a family practitioner, were sufficient to warrant further development on the issue of whether the diagnosed left medial and lateral meniscus tears were causally related to the employment injury on February 7, 2002. The case was remanded to the Office for further development of the claim.

The Office referred appellant to Dr. V.G. Raghavan, a Board-certified orthopedic surgeon and second opinion referral physician. In a decision dated September 19, 2003, the Office determined that appellant was not entitled to additional compensation for wage-loss or medical benefits. In a May 26, 2004 decision, the Board set aside the September 19, 2003 decision, finding that Dr. Raghavan did not address the specific issue of whether appellant sustained a left medial or lateral meniscus tears causally related to the February 7, 2002 employment injury.² The case was remanded for further development of the medical evidence. The history of the case is provided in the Board's prior decisions and is incorporated herein by reference.

The Office referred appellant, a statement of accepted facts and medical records, to Dr. Steven Lancaster, a Board-certified orthopedic surgeon. In a report dated August 2, 2004, he provided a history and results on examination. Dr. Lancaster noted that appellant reported that she had problems from the time of the injury until surgery, but the medical records indicated that she was released back to full duty with a normal examination on March 7, 2002. He indicated that, if the February 7, 2002 employment incident had caused a meniscal tear, it would have resulted in ongoing swelling and pain and would not have shown the improvement that was noted in the medical records. Dr. Lancaster opined that it was more likely that the meniscal tears "were a progressive event of appellant's underlying degenerative disease based on her good improvement with the follow-up clinic visits."

In a decision dated August 19, 2004, the Office determined that the medical evidence did not establish the left meniscus tears as employment related. The Office found that appellant was not entitled to additional compensation as a result of the February 7, 2002 employment injury.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁴ The Board has noted that in assessing medical evidence the weight of such evidence is determined by its reliability, its probative value and its convincing quality. The factors which enter in such an evaluation include the opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the

¹ Docket No. 03-63 (issued May 6, 2003). On February 7, 2002 appellant fell from a chair and landed on her left knee. The claim was accepted for a left knee contusion.

² Docket No. 04-548 (issued May 26, 2004).

³ 5 U.S.C. §§ 8101-8193.

⁴ *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

care of the analysis manifested and the medical rationale expressed is support of the physician's opinion.⁵

ANALYSIS

The case was remanded to the Office to further develop the issue of causal relationship between the diagnosed conditions of left medial and lateral meniscus tears and the February 7, 2002 employment incident when appellant fell from a chair and landed on her left knee. An attending physician, Dr. Montrichard, indicated in an April 17, 2002 Form CA-20 report, that her condition was causally related to the employment incident. As noted, Dr. Raghaven, the physician initially selected as a second opinion referral physician, was not specifically asked to provide an opinion with respect to the issue and failed to address the left lateral and medial meniscus tears.

The August 2, 2004 report from Dr. Lancaster does address the issue and provided a reasoned medical opinion that the meniscus tears were not related to the February 7, 2002 employment injury. He noted that the medical record indicated that appellant was released to regular work on March 7, 2002 which was not consistent with meniscus tears on February 7, 2002, as they would have continued to be symptomatic. Dr. Lancaster indicated that it was more likely that the meniscus tears were related to the progression of appellant's preexisting degenerative knee condition.

The Board finds that Dr. Lancaster provided a reasoned medical opinion based on a complete background that the meniscus tears were not employment related. This represents the weight of the medical evidence as there are no narrative medical reports of similar probative value on causal relationship. Dr. Montrichard supported causal relationship on a form report, but did not provide a reasoned medical opinion based on a complete background. Since the weight of the evidence did not support causal relationship between the diagnosed left medial and lateral meniscus tears and the employment injury, the Office properly found that appellant did not establish the conditions as employment related.

CONCLUSION

The weight of the probative medical evidence is represented by Dr. Lancaster, who opined that the left medial and lateral meniscus tears were not related to the employment injury, but to progression of a preexisting degenerative condition.

⁵ Gary R. Sieber, 46 ECAB 215 (1994).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 19, 2004 is affirmed.

Issued: January 27, 2005
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member